IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 22ND AUGUST 2007 / 31ST SRAVANA 1929

Bail Appl..No. 5169 of 2007()

CRIME NO. 53/07 OF EXCISE OFFICE, ANCHAL, KOLLAM

PETITIONER/2ND ACCUSED

SANTHA, AGED 55 YEARS,
SWAPANA VILASAM, VILAKKUPURAM, AYIRANALLOOR
VILLAGE, PATHANAPURAM TALUK, KOLLAM DISTRICT.

BY ADV. SRI.SAJIV.C.K.

RESPONDENTS: STATE & COMPLAINANT

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1. STATE OF KERALA REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

2. EXCISE INSPECTOR,
ANCHAL RANGE, KOLLAM.

BY PUBLIC PROSECUTOR SRI. JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 22/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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B.A.No. 5169 of 2007

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Dated this the 22nd day of August, 2007

O R D E R

Application for anticipatory bail. Petitioner is the sole accused. She was allegedly found to carry 10 litres of arrack in her possession when the Excise officials intercepted her on 5.8.2007. Seizure was effected, but the petitioner was not arrested as the detecting party did not consist of any woman official. Investigation is in progress. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that the allegations are totally false. The incident did not at all take place in the manner alleged by the prosecution. In fact the petitioner was harassed and she raised objections and therefore this false case has been registered against her. The petitioner may be granted anticipatory bail, prays the learned counsel.

3. The learned Prosecutor opposes the application. He submits that there is no merit whatsoever in the contention that the petitioner is being harassed by the registration of such a crime. The petitioner has two other cases under the Abkari Act registered against her. All indications suggest that the allegations are true and correct. The

petitioner may be directed to resort to the ordinary and regular procedure of appearing before the Investigating Officer or the learned Magistrate having jurisdiction and then seek regular bail in the ordinary course.

4. Having considered all the relevant inputs, I find merit in the opposition raised by the learned Prosecutor. At any rate, there are no features in this case, which would justify the invocation of the extra ordinary equitable discretion under Section 438 Cr.P.C. This I am satisfied is a fit case where the petitioners must resort to the ordinary and normal procedure of appearing before the Investigator or the learned Magistrate having jurisdiction and then seek regular bail in the ordinary course.

5. This application is accordingly dismissed. Needless to say, if the petitioners appear before the Investigating Officer or the learned Magistrate having jurisdiction and apply for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass orders on merits, in accordance with law and expeditiously.

(R. BASANT)
Judge

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